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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Sarah H. Kiefhaber

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EXAMINER

NGUYEN, KHAI N

ART UNIT

PAPER NUMBER

2614

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DELIVERY MODE

10/17/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/815,534	<b>Applicant(s)</b> KIEFHABER ET AL.	
	<b>Examiner</b> KHAI N. NGUYEN	<b>Art Unit</b> 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-25 and 27-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-25, 27-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 21, 2008 has been entered.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Response to Amendment***

3. Applicant's amendment filed on July 21, 2008 has been entered. Claims 1-2, 5, 7, 13, 16-17, 20, 22, and 27 have been amended. Claims 12 and 26 have been canceled. No claims have been added. Claims 1-11, 13-25, and 27-40 are still pending in this application, with claims 1, 11, 13, 25, and 27 being independent.

### ***Claim Rejections - 35 USC § 101***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-10 (claims 1-2, 5, and 7 have been amended), and 39 are rejected under 35 U.S.C. § 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory “process” under 35 U.S.C. § 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Reference the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Policy, John J. Love, titled “Clarification of ‘Process’ under 35 U.S.C. § 101”). The instant claims (1-10, 13-24, and 39-40) neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process.

Claim 1 appears to have a mere manipulation of data (tracking, maintaining, evaluation, determination,) and an indicator, and does not have any tangible, useful and concrete result. Making a “determination” on routing is not the same as actually “routing”. Also, “evaluation” may be a mental step (someone looking and deciding/evaluating the indicator”). No practical application is provided.

#### ***Claim Rejections - 35 USC § 102***

5. Claims 1-11, 13-25, 27-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Schroeder et al. (U.S. Patent Number 6,829,348 hereinafter “Schroeder”).

Regarding claims 1, 11, 16, and 30, Schroeder teaches a method (Figs. 1-20), a computer readable medium comprising processor executable instructions (Fig. 18, 1800 Computer System, 1808 Main Memory, 1812 Hard Drive, 1814 Removable Drive, column 29, lines 24-47), and wherein contacts are serviced by a plurality of agents (Fig. 1A, 32 Contact Center Management System, 50 Agent Computer, 52 Agent Phone, column 10, lines 25-32, i.e., a plurality of agent computers and telephones located in the center), comprising:

- tracking (Fig. 1A, 28 Tracking System, Fig. 6, 128 Contacts Tracking System, Fig. 20, Contact Tracking System Strategy), by a repeat contact determining agent (Fig. 1A, 28, 28a Database, Fig. 6, 128, 128a, 66, 68 Contact History) and over a selected time period, for a set of a plurality of agents servicing a plurality of discrete real-time (Fig. 1A, 36 Customer Phone, Fig. 6, 60 Customer Contact Channels, Voice/PSTN) and non-real-time contacts (Fig. 1A, 40 Customer Computer, Fig. 6, 60, Internet, E-Mail) from different customers, a number of discrete real-time (Fig. 1A, 36, Fig. 6, 60) and non-real-time (Fig. 1A, 40, Fig. 6, 60) contacts serviced by the set of agents that are and/or are not related to one or more other discrete real-time and non-real-time contacts from different customers, serviced by the plurality of agents (Fig. 1A, Fig. 6, column 9, lines 48-56, column 12, lines 25-28, i.e., whether the customer has called previously “repeat contact”, and column 21, lines 38-45);

- maintaining, by a repeat contact determining agent (Fig. 1A, 28, 28a, Fig. 6, 128, 128a, 66, 68 Contact History) and for the set of agents, an indicator (Fig. 1A, 28,

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Fig. 6, 128, 128b Call Tracking, 128f Case Management) indicating at least one of (i) a number of discrete real-time (Fig. 1A, 36, Fig. 6, 60) and non-real-time (Fig. 1A, 40, Fig. 6, 60) contacts, serviced by the set of agents during the selected time period, that are not related to one or more other discrete real-time and non-real-time contacts serviced by one or more of the plurality of agents and (ii) a number of discrete real-time and non-real-time contacts, serviced by the set of agents during the selected time period, that are related to one or more other discrete real-time and non-real-time contacts serviced by the plurality of agents (Fig. 1A, Fig. 6, column 13, line 58 through column 14, line 6, and column 22, lines 35-38, i.e., ties a set of related contacts together), and

- using the indicator (Fig. 1A, Fig. 6), for at least one of the following purposes:

- evaluation of performance of the contact center and/or one or more agents (Fig. 6, 128, 128a, 130, 130a, 132, column 23, line 55 through column 24 line 5, i.e., provide data regarding calls to the contact center, the performance of agents); and

- determination of a routing destination for a selected currently pending contact (Fig. 1A, Figs. 2-6, column 11, lines 36-47, i.e., a desired agent may be an agent who is currently available, an agent that has extensive knowledge about a particular area).

Regarding claims 2, 17, and 31, Schroeder teaches the contact center and method (Figs. 1-20), further comprising:

- when a first contact of a first customer is serviced by the set of agents, receiving from the servicing agent a subject matter identifier indicating a purpose of the serviced first contact (Fig. 1A, Fig. 4, step 29, column 14, lines 30-36, i.e., information about the call itself, reason why the customer is calling); and

- when a later second contact is received from the first customer, comparing a second subject matter identifier associated with the second contact with the first subject matter identifier to determine whether the first and second contacts are related (Fig. 1A, 28a, Fig. 4, column 13, lines 58-61, i.e., determine if contact information already exists in database 28a, and column 22, lines 43-46, i.e., first contact and any subsequent contacts may be linked together).

Regarding claims 3-4, 18-19, and 32-33, Schroeder teaches the contact center and method, wherein, when the first and second identifiers are similar, the first and/or second and third contacts are deemed to be related, and wherein, when two contacts are received from the same customer during a predetermined period of time, the two contacts are deemed to be related (Fig. 1A, Fig. 6, column 22, lines 35-38, i.e., ties a set of related contacts together, and lines 43-46, i.e., first contact and any subsequent contacts may be linked together).

Regarding claims 5, 20, and 34, Schroeder teaches the contact center and method, further comprising:

- monitoring (Fig. 6, 128g Data Capture) a set of communications between a servicing agent in the set of agents and a customer during servicing of a contact (Fig. 1A, Fig. 6, 122, 128, 128f, 128g, column 22, lines 51-55); and

- based on the set of communications, determining that the contact is related to another contact/previous completed contact from the same customer (Fig. 1A, Fig. 6, 122, 128, 128f, 128g, column 22, lines 56-60, i.e., reason and disposition of the contact, and lines 35-38, i.e., ties a set of related contacts together).

Regarding claims 6, 21, and 35, Schroeder teaches the contact center and method (Fig. 1A, Fig. 6), and wherein the monitoring step comprises:

analyzing the set of communications for at least one selected word (Fig. 1A, Fig. 2, 44a Interactive Voice Response (IVR), 48a Computer Telephony Integration (CTI) server) and wherein in the determining step, the presence of the at least one selected word means that the contact is related to another contact (Fig. 1A, Fig. 2, 44a IVR, 48a, column 12, lines 2-32, i.e., customer has called previously).

Regarding claims 7, 22, and 36, Schroeder teaches the contact center and method (Figs. 1-20), wherein each agent in the set has a corresponding indicator indicating a number of contacts (Fig. 1A, 28, Fig. 6, 128, Fig. 20 Contact Tracking System), serviced by the set of agents during a selected time period, that are (i) not related to another contact serviced by one or more of the plurality of agents or (ii)



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related to another contact serviced by one or more of the plurality of agents (Fig. 1A, 28, Fig. 6, 128, 128f, column 22, lines 35-38) and further comprising:

- receiving a contact to be serviced by one of the plurality of agents (Fig. 1A, 20, 32 Contact Center Management System, 36 Customer Phone, 52 Agent Phone, column 10, lines 25-32);

- retrieving agent profiles for the set of agents/selected subset of the plurality of agents; and assigning one of the set of agents to service the contact based, at least in part, on a comparison of the indicators corresponding to the agents in the set/subset (Fig. 1A, 20, 32, column 11, lines 36-36, i.e., a desired agent may be an agent that has extensive knowledge about a particular area).

Regarding claims 8, 24 and 37, Schroeder teaches the contact center and method (Figs. 1-20), wherein the indicator indicates a number of contacts (Fig. 1A, 28, Fig. 6, 128, Fig. 20 Contact Tracking System), serviced by the set of agents/ corresponding agent during the selected time period, that are related/not related to another contact serviced by one or more of the plurality of agents (Fig. 1A, 28, Fig. 6, 128, 128f, column 22, lines 35-38) and wherein a single contact is defined as each interaction between a selected agent and a selected customer such that an agent-to-agent transfer of a communication from the selected customer is considered to represent multiple contacts (Fig. 1A, Fig. 6, 132 Contact Center Management System, Fig. 9 Agent Productivity System, column 27, lines 44-46, i.e., number of calls/percentage of calls transferred).

Regarding claims 9, 23, and 38, Schroeder teaches the contact center and method (Figs. 1-20), wherein the indicator indicates a number of contacts (Fig. 1A, 28, Fig. 6, 128, Fig. 20 Contact Tracking System), serviced by the corresponding agent during the selected time period, that are relate/not related to another contact serviced by the agent (Fig. 1A, 28, Fig. 6, 128, 128f, column 22, lines 35-38) and wherein a single contact is defined as all interactions between all members of the set of agents and a selected customer such that an agent- to-agent transfer of a communication from the selected customer is considered to represent a single contact (Fig. 1A, Fig. 6, 128, 130 Contact Center Reporting System, 132, column 25, line 60 through, column 26 , line 10).

Regarding claim 10, Schroeder teaches the method, wherein the set of agents comprises one or more agents in the plurality of agents (Fig. 1A, Fig. 6, column 10, lines 25-32), wherein the related contact is a prior contact, and wherein the membership of the set of agents is defined by skill (Fig. 1A, Fig. 6, Fig. 20, column 22, lines 35-43, i.e., agent handles the call and offers solution either in the present call or subsequent calls).

Regarding claims 13 and 25, Schroeder teaches a method (Figs. 1-20), a computer readable medium comprising processor executable instructions (Fig. 18, 1800 Computer System, 1808 Main Memory, 1812 Hard Drive, 1814 Removable Drive, column 29, lines 24-47), comprising:

(a) at least one of receiving a first real-time contact from and initiating a second real-time contact with a first customer (Fig. 1A, Fig. 6, Fig. 20, column 22, lines 35-43, i.e., agent handles the call and offers solution either in the present call or subsequent calls);

(b) determining, by a repeat contact determining agent (Fig. 1A, 28, 28a, Fig. 6, 128, 128a, 66, 68 Contact History), whether the first and/or second contact is related to another real-time or non-real-time contact with the first customer (Fig. 1A, 28, Fig. 6, 128, 128b Call Tracking, 128f Case Management); and

(c) when the first and/or second contact is related to another real-time or non-real-time contact with the first customer, servicing, by a contact center resource, the first and/or second contact differently than when the first and/or second contact is unrelated to another real-time or non-real-time contact with the first customer (Fig. 1A, Fig. 6, Fig. 20, column 22, lines 35-50, i.e., these contacts can be tied “related or unrelated” together in a number of ways, and real-time “subsequent calls”, and non-real-time “subsequent e-mails” ).

Regarding claims 27, Schroeder teaches a contact center (Fig. 1A, 20, Fig. 6, 122) for servicing contacts, comprising:

- an input (Fig. 1A, 22 Call Center, Fig. 6, 60 Customer Contact Channels) operable to receive a contact from a first customer (Fig. 1A, 36 Customer Phone, 40 Customer Computer, Fig. 6, 60 Internet, Voice/PSTN, E-Mail, column 19, lines 16-19); and

- a selector operable (Fig. 1A, 28, Fig. 6, 128 Contact Tracking System) (i) to determine whether the received real-time contact (Fig. 6, 60 Voice/PSTN) is related (Fig. 6, 128b Call Tracking, 128f Case Management) to another real-time or non-real-time (Fig. 6, 60 Internet, E-Mail) contact with the first customer and (ii) when the received real-time contact is related (Fig. 6, 128b Call Tracking, 128f Case Management) to at least one real-time and non-real-time contact with the first customer, to service, by a contact center resource (Fig. 1A, 52 Agent Phone, 50 Agent Computer), the received real-time contact differently than when the received real-time contact is unrelated to at least one real-time and non-real-time contact with the first customer (Fig. 1A, Fig. 6, Fig. 20, column 22, lines 35-45).

Regarding claims 14 and 28, Schroeder teaches the method and a contact center, wherein the selector (Fig. 1A, 28, Fig. 6, 128 Contact Tracking System) is further operable (iii) to tag the received contact, while in queue awaiting servicing, with a number of related real-time and non-real-time contacts with the first customer (Fig. 6, 128b Call Tracking, 128g Data Capture, column 21, lines 46-48, and column 22, lines 51-55).

Regarding claims 15 and 29, McKenna teaches the method and a contact center, wherein the selector (Fig. 1A, Figs. 3-6), when the received contact is related to a previous contact with the first customer, at least one of (i) records the received contact interaction to form a transcript of the interaction (Figs. 3-4, 44b IVR), (ii) forwards the

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received contact to a first agent having a first skill (Figs. 3-4, 52 Agent Phone), and (iii) activates quality monitoring (Fig. 5, 28a Tracking System, 30a Reporting System) and, when the received contact is unrelated to a previous contact with the first customer, does not at least one of (i) record the received contact interaction to form a transcript of the interaction, (ii) forward the received contact to a first agent having a first skill, and (iii) activate quality monitoring (Fig. 1A, Figs. 3-6, column 13, lines 32-57, and column 15, lines 38-57).

Regarding claims 39 and 40, Schroeder teaches the method, further comprising:

- identifying, for at least one of an agent and selected grouping of agents a number of one-and-done contacts serviced by the at least one of an agent and selected grouping of agents, wherein each of the one-and-done contacts is not related to one or more other contacts from a common customer (Fig. 2, 44a IVR, 48a CTI, column 12, lines 20-32).

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-11, 13-25, and 27-40 under 35 U.S.C. 102(e) have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments with respect to claims 1-10, and 39 under 35 U.S.C. 101 have been fully considered but they are not persuasive. As set forth in the above rejection, while these instant claims recite a series of steps or acts to be performed, a

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statutory "process" under 35 U.S.C. § 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Reference the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Policy, John J. Love, titled "Clarification of 'Process' under 35 U.S.C. § 101").

The instant claims recite nothing more than a manipulation of data or merely recite a disembodied database, in a form of an algorithm steps and they did not include any tangible computer or network references. And, the recited steps can be performed in the mind of a user/person or by the use of a pencil and paper. The claimed invention, as a whole, neither transforms underlying subject matter nor positively ties to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Owen et al. (U.S. PAT 7,266,508) teach a system and a method for managing customer contacts and related information.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHAI N. NGUYEN whose telephone number is

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(571)270-3141. The examiner can normally be reached on Monday - Thursday 6:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad F. Matar can be reached on (571) 272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. N. N./  
Examiner, Art Unit 2614

10/09/2008

/Ahmad F. Matar/  
Supervisory Patent Examiner, Art Unit 2614

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